

Serial No. 10/633,938

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## REMARKS

Initially, Applicants express their appreciation to Examiner T. M. Nguyen for the courtesies extended to one of them (Thomas E. Lach) and their undersigned attorney during a personal interview held on July 6, 2007. The present amendment sets forth and accords with the substance and results of that interview.

In the April 11, 2007, Office action, Claims 128 to 134, 145 to 156, 171 to 182, 198 to 212, and 228 to 239 received examination. The present Amendment cancels Claims 210 and 211. With the indicated amendments, Applicants retain the remaining, previously examined claims here for further examination.

A. *Claim Rejections – 35 U.S.C. § 112*

Claims 145 to 156 and 210 to 212 were rejected under 35 U.S.C. § 112. Applicants respectfully traverse this rejection.

With regards to Claims 145 to 156, Applicants' attorney, at the July 6, 2007, interview, made reference to the paragraph spanning pages 31 and 32 of the specification as originally filed. This portion of the specification specifically deals with Figure 9, which represents the species under present examination. The last sentence of the referenced paragraph states, "The power unit 254 may use computer controls to time the application of force." Clearly this can only work by the computer supplying a signal at the appropriate times. The examiner, during the interview, appeared to indicate concurrence that this portion of the specification provides an adequate basis for these claims.

The present amendment cancels Claims 210 and 211. Clearly, this should serve to obviate the rejection of these claims.

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Claim 212 did not receive any discussion during the July 6, 2007, interview. However, the paragraph on pages 30 and 31, referenced above also provides support for this claim as well.

B. *Claim Rejections – Prior-Art*

Claims 128, 129, 145, 146, 152, and 153 were rejected under 35 U.S.C. § 102 as anticipated by Lach et al. Claims 154 to 156, 171, 172, 178 to 182, 198, 199, 205 to 209, and 236 to 238 were rejected under 35 U.S.C. § 103 as obvious over Lach et al. Finally, Claims 130 to 134, 147 to 151, 173 to 177, 200 to 204, and 228 to 233 (and presumably 235) were rejected under 35 U.S.C. § 103 as obvious over Lach et al. in view of Barkalow et al. Applicants respectfully traverse these rejections.

Clearly, all of these rejections have Lach et al. as their primary (or only) reference. Accordingly, Applicants have presently amended their claims to distinguish over this reference. The basis for the amendments appears on pages 16 and 17 as well as the figures of the application as originally filed.

Lach et al. incorporate and use the band guides 16 and 18 to clasp the sides of the patient's thorax. The belt (or band) 12, by design, does not make contact with the back of the patient's thorax except with the segment 32 in the middle of the back.

While Lach et al.'s device works acceptably well for a patient with a thorax as illustrated in the figures, it quickly loses effectiveness for patients with substantially different figures. Thus, with a very thin person, the top of the thorax may well fall at around the top of the guides 16 and 18, drastically reducing the down force on the thorax. Conversely, for a large person, the device may exert primarily downward forces.

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The present language of the claims, as presently amended, requires "wrapping a belt around and in contact with a substantial majority of a patient's torso, said belt being in *continuous contact with the patient's torso, including the front, sides, and a portion of the back of the patient's torso.*" (Emphasis added.) Most of the claims also state that the belt has first and second opposite extremities.

The claims, as currently amended specifically exclude the construction shown in Lach et al. Further, it achieves the important feature of providing CPR on patients of almost any size and type of torso. For this reason, the present claims patentably distinguish over the Lach et al. reference whether taken alone or in combination with Barkalow et al. Again, the July 6, 2007, appeared to reach this result. An indication to this effect is sincerely requested.

Further, the Lach et al. and the Barkalow et al. references do not combine, contrary to the assertions contained in the April 11, 2007, Office action. Lach et al. have a belt that attempts some form of circumferential squeezing. In comparison, Barkalow et al. display a "thumping" type of device with no belt whatsoever; it simply pushes down on a patient's chest. Neither reference contains any suggestion that it, by itself, is not complete or that it should or could combine with any other type of device. Nor does either suggest that any benefit might result from such a combination should it be made. Further, neither even says how these two very different types of devices could combine. In fact, combining these two types of devices proved so novel and beneficial that it proved patentable in applications to which the present application claims priority. Clearly, combining Barkalow et al. with Lach et al. involved creating an invention that had not occurred before the present applicants did it in these applications. Accordingly, creating the combination for a rejection is not warranted.

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under these circumstances, and the present application appears patentable over it. Applicants respectfully request an indication to this effect.

C. *Finality of the April 11, 2007, Office Action*

The April 11, 2007, Office action was made "final." Applicants respectfully traverse this holding.

Page 10 of the recent Office action states, as the reason for its finality, "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action." The record of the present application shows the opposite to this statement.

Claims 145 and 228, as well as their dependencies show most clearly the history of the applied rejections. In the (prior) May 15, 2006, Office action, Claims 145 to 147 and 150 to 153 were rejected under 35 U.S.C. § 102 as anticipated by Mollenauer et al. Claims 154 to 156 were rejected under 35 U.S.C. § 103 as obvious over Mollenauer et al. Finally, Claims 148, 149, and 228 to 239 were rejected under 35 U.S.C. § 103 as obvious over Mollenauer et al. in view of Barkalow et al. A formal rejection under 35 U.S.C. § 112 was also applied to the claims.

Applicants' November 15, 2006. Amendment responded to the May 15, 2006, Office action. The *only* amendments to the independent Claims 145 and 228 consisted of the following:

In Claim 145, the word "means" was deleted eight times. The word "said" was replaced by the words "a" and "an." The word "directions" replaced "a direction," and the word "periodically" was removed. Claim 228 saw even less significant amendments. In fact,

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in that claim, the amendment consisted of *only* removing the word "means" five times and substituting the word "a" for "said."

Clearly, none of the extremely minor amendments to Claims 145, 228, and their dependencies necessitated the citation of the Lach et al. reference. Rather, that resulted from the fact that the main reference cited against these claims, i.e., Mollenauer et al., did not actually constitute prior art under either section 102 or 103 of the statute.

In fact, Mollenauer et al.'s filing date of August 27, 1997, occurred more than 20 months after the priority date of December 15, 1995, to which the present application has an entitlement. This discrepancy in the filing dates, and the fact that Mollenauer et al. does not constitute prior art to the present application is what necessitated the citation of the new reference of Lach et al. Accordingly, since Applicants' November 15, 2006, Amendment did not necessitate the citation of the Lach et al. reference, the finality of the April 11, 2007, Office should be removed. This action is respectfully requested.

*D. Conclusion*

Initially, Applicants note that no rejection was applied to Claim 239. However, the cover page to the April 11, 2007, Office action (form PTOL-326) listed Claim 239 as rejected. Accordingly, Applicants are uncertain as to the status of this claim.

Applicants believe that the above amendment and discussion have placed the present application in condition for allowance. They sincerely request this action. Should some minor impediment prevent this action, then the examiner is respectfully requested to contact Applicants' attorney at the telephone number given below. Hopefully, such a phone call will

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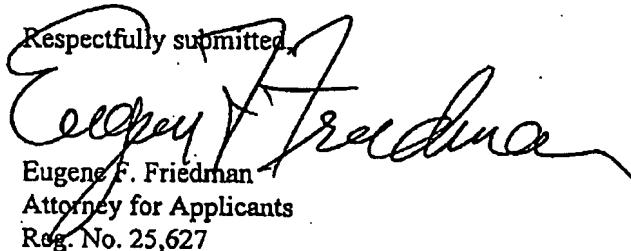
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portend a substantial saving on the parts of the Patent and Trademark Office as well as Applicants.

Since the present Amendment responding to the April 11, 2007, Office action has been timely filed, no extension fee appears necessary. However, should that prove incorrect, then any required extension fee may be charged to Deposit Account 06-2135 of the undersigned attorney.

Respectfully submitted,

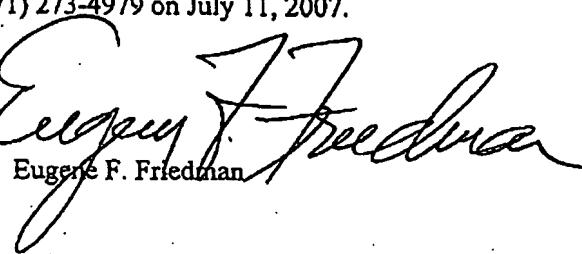


Eugene F. Friedman  
Attorney for Applicants  
Reg. No. 25,627

Eugene F. Friedman  
FRIEDMAN & FRIEDMAN, LTD.  
Printers Square – Suite 710  
780 South Federal Street  
Chicago, Illinois 60605  
(312) 922-8882  
Dated: July 11, 2007

#### CERTIFICATE OF FAXING

I certify that this correspondence is being faxed to the Commissioner for Patents at phone numbers (571) 273-8300 and (571) 273-4979 on July 11, 2007.



Eugene F. Friedman

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